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SUBJECT: CZECH REPUBLIC: POST RECOMMENDS WATCH LIST FOR
SPECIAL 301 OUT-OF-CYCLE REVIEW

REF: A. 11/7 TLAPA-AMBASSADOR LETTER

- [1](#)B. PRAGUE 849
- [1](#)C. PRAGUE 742
- [1](#)D. PRAGUE 578
- [1](#)E. PRAGUE 457
- [1](#)F. STATE 56305
- [1](#)G. PRAGUE 399
- [1](#)H. PRAGUE 315
- [1](#)I. PRAGUE 274
- [1](#)J. PRAGUE 244

[1](#)1. (SBU) SUMMARY AND RECOMMENDATION: Post recommends the Czech Republic be placed on the Special 301 Watch List at the upcoming out-of-cycle IPR review (OCR). The Czechs have had seven months to develop and implement an action plan with limited progress to report. The Czech IPR inter-ministerial committee developed and presented an action plan to the cabinet on October 3, and the committee has not initiated concrete actions to implement this plan. The IPR violations at the border markets originally noted by recording industry watchdog groups in April have continued relatively free from prosecution, and the border markets have grown in size and permanence. Post has visited the pirate markets on multiple occasions and viewed first-hand the scale of IPR violations and lack of legitimate business at the markets. End Summary and Recommendation.

Fair Warning Given

[1](#)2. (SBU) Since the April 30 announcement that the Czech Republic will face an out-of-cycle IPR review, Post has regularly engaged the Ministry of Industry and Trade (MIT) and the IPR inter-ministerial committee to explain Washington's position and press for the development and execution of an action plan to combat piracy at these markets. In his July 17 meeting with Deputy Minister of Industry and Trade Martin Tlapa (ref H), Ambassador Graber reinforced the U.S. position, including the need to see measurable results for the CR to stay off the Special 301 Watch List. (Note: Minister of Industry and Trade Martin Riman was unavailable for this meeting with Ambassador Graber, which Post believes was due to an unrelated political issue. End Note.) Tlapa got the message but noted that, "lots of people here think you won't put us on the Watch List." During each subsequent visit with Czech government officials, Emboffs made clear that both an action plan and measurable accomplishments were needed before the OCR, and failure to show results could result in Czech placement on the Watch List. The Ambassador made a final appeal to Tlapa November 1, urging the Czechs to provide the USG with a

statement for the Special 301 OCR, including evidence of enforcement actions taken and a timeline for the action plan items. Post has not yet received a statement, and does not expect a response other than the November 7 letter from Tlapa to Ambassador Graber.

Baby Steps in the Right Direction But Still Falling Short

13. (SBU) The Czechs have held four inter-ministerial meetings since May to discuss the problem and possible solutions. Embosfs have been invited to three of these meetings, and representatives from the recording industry to two. The action plan developed from these meetings includes about 60% of the suggestions made by the USG and industry, including a no tolerance policy, increased criminal regulations, higher penalties and training for judges and prosecutors. However, the action plan lacks some items suggested by the USG, including increased law enforcement presence at the markets, legislating landlord liability and revocation of business licenses for IPR violators, and it is devoid of concrete implementation timelines for any of the items.

14. (SBU) New legislation increased fines and punishments for IPR violations as expected, but the lack of consistent enforcement and quick judicial proceedings hobbles the usefulness of these changes. While the pace of progress has been limited, these legislative changes are positive and create a stronger future framework for IPR protection. Enforcement of existing laws remains the biggest problem. To remedy this, Post and industry groups are coordinating training opportunities, including USPTO-sponsored courses, for the Czech Ministry of Interior on a number of IPR enforcement topics.

15. (SBU) The positive trend in IPR enforcement at the border

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markets in late 2006 and early 2007 did not continue into the summer. Although 6,000 armed inspectors of the Customs Directorate were given authority to address the IPR issue, the number of confiscations and raids dropped in the first half of 2007. According to MIT-provided statistics, the Czech Business Inspectorate performed twenty-eight raids in September and October and confiscated approximately \$1.7 million USD in pirated goods. However, discussions with Customs officers indicates that these statistics are questionable, and that the raids were not as successful as MIT presented. The Customs officers complained that the recent shift from occasional raids and inspections conducted by individual agencies to more infrequent, large-scale raids with participation from all agencies led to the market owners being tipped off ahead of time, with a resultant reduction in confiscations.

Political Will Vacuum

16. (SBU) Tlapa's November 7 letter to Ambassador Graber (ref A) is evidence of the continuing lack of political will. Despite his promise to Department of Commerce Assistant Secretary Bohigian to address IPR violations at the border

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markets after his March 8 visit to Washington, Tlapa failed to match his statements with actions. His letter claims that public condemnation of the piracy problem is by itself a strong signal of government engagement. It further explains his belief that the appropriate government role is high-level coordination and makes excuses for the lack of progress and for why a detailed action plan is not needed, including the ludicrous statement that GOCR cannot tell us what they are doing to fight IPR violations because this information is confidential.

17. (SBU) Industry watchdog groups feel the Czechs have dragged their feet developing and implementing their action plan and should be placed on the Priority Watch List. One

explanation, although hardly excusable, is that the action plan was developed over the summer vacation season, when many government employees are out of the office for long periods of time. Consequently, the action plan was not approved by the Minister of Industry and Trade until September and finally presented to government in October. While these difficulties do not fully mitigate the Czech government's lack of progress, the action plan is now in place and the GOCR needs time to demonstrate it will follow through. While placement on the Special 301 Watch List will send a strong signal and give needed support to our allies in the Czech ministries, placement directly on the Priority Watch List could complicate efforts to constructively engage the Czech government in the future.

Rollout Plan

18. (SBU) Post continues to sensitize Czech officials about the possibility of being placed on the Watch List and we are developing a rollout strategy to inform the relevant ministries about the upcoming OCR decision. Any information Washington can provide on the timing of the OCR decision process will be greatly appreciated. Despite our repeated warnings, we believe that most Czechs will be somewhat surprised if they are placed on the Watch List. The GOCR has listed IPR issues (specifically in relation to China) as a priority during EU Presidency, and being placed on the Watch List could cause some embarrassment. Although a handful of people with the most sober understanding of the situation and process are aware of this reality, most simply do not believe the USG will take this action because of other bilateral political considerations such as missile defense. Placement on the Special 301 Watch List will provide political cover for our allies within the Czech government, allowing them to push through needed improvements to the IPR situation without alienating or leaving them feeling hopeless by jumping ahead to the Priority Watch List.

Graber